

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re)	Case No. 03-03286
)	Chapter 7
JESSICA LOKELANI SPRAGLING,)	
)	
Debtor.)	
)	
)	
_____)	

**MEMORANDUM DECISION ON
MOTION FOR RECONSIDERATION**

On November 17, 2003, City Bank filed a Motion for Relief From Automatic Stay. City Bank stated that the debtor owed it more than \$23,000 secured by a 2002 Mazda Protege vehicle that was worth only \$5,760. City Bank gave notice of the motion in accordance with the local rules. LBR 4001-1(a)(3)(A). The debtor, Ms. Spragling, did not file a timely opposition or a response to the motion, and therefore the court removed the motion from its hearing calendar and granted the motion without holding a hearing. LBR 4001-1(a)(3)(B). The Order Granting Motion For Relief From Automatic Stay was entered on December 3, 2003.

Ms. Spragling filed a Motion For Reconsideration on December 12, 2003. Ms. Spragling does not dispute City Bank's valuation of the vehicle. (She does not agree with the amount of the debt claimed by City Bank but does not state

how much she thinks she owes.) Rather, she claims that \$2,775 of the vehicle's value is exempt pursuant to 11 U.S.C. § 522(d)(2). See Chapter 7 Individual Debtor's Statement of Intention, filed December 1, 2003.¹ Ms. Spragling argues that this claimed exemption gives her equity in the vehicle and should result in denial of the motion. This argument is not correct. The debtor is entitled to receive the exempt portion of an item's value only after voluntary secured claims (such as City Bank's) are paid in full (except to the extent that the secured claim may be avoided. 11 U.S.C. §§ 522(c)(2), 724(b); 2 David G. Epstein et al., Bankruptcy § 8-1 at 455-56 (1992). There is no indication that City Bank's lien is avoidable. Therefore, Ms. Spragling's exemption would have value only if the vehicle were worth more than \$23,000. Because Ms. Spragling agrees that the vehicles is worth only \$5,760, her exemption claim is not relevant to the motion.

Ms. Spragling states that she needs the vehicle to care for her family. Her situation is sympathetic, but debtors are not entitled to keep collateral without satisfactorily addressing the rights of their secured creditors.

Because relief from the order would not be warranted, the court will enter a separate order denying the debtor's Motion For Reconsideration filed on

¹According to her motion for reconsideration, Ms. Spragling viewed this statement as a response to the motion for relief from the stay. The statement did not, however, mention the motion or give any reason why the motion should be denied.

December 12, 2003.

DATED: Honolulu, Hawaii, January 5, 2004.

 */s/ Robert J. Faris*
United States Bankruptcy Judge